IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 7762 of 2005

Between:

Danteswar Traders, rep by Proprietor,

Sunil Prasad Yadav S/o Sudhama Prasad Yadav
R/o Nayapura Main Road, Kunta,

Danthewada District, Chattisgarh State

..... PETITIONER

AND

1 The State of A.P., rep by Secretary, Commercial Tax Department, Secrtariat, Hyderabad
2 The Commissioner, Commercial Tax Department, A.P., Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in insisting of production of Transit pass even before the integrated/Sales Tax Check Posts are illegal, arbitrary, contrary to Section 47 of APVAT Act, 2005 and violative of Articles 19, 21 and 300-A of the Constitution of India and consequently direct the respondents not to insist on

production of transit pass before the integrated/Sales tax Check posts, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MRNVIJAY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following ORDER: (per BRSR, J)

The petitioner seeks a writ of Mandamus declaring the action of the respondents in insisting for production of Transit pass even before the integrated/sales tax check posts as illegal, arbitrary and contrary to Section 47 of A.P.V.A.T. Act, 2005 (for short 'the Act').

In the affidavit filed in support of the writ petition, it is inter-alia stated by the petitioner that the officers of the Commercial Tax Department are detaining the goods vehicles in the case of the petitioner on the ground that it does not have transit pass as prescribed under Section 47 of the Act, as they are unaware of the fact that there is no sales tax check post up to Tada. It is also stated that the vehicles are being detained by the officers and after much persuasion, the vehicles are being released.

In this case, the vehicle is not detained nor the same has been seized by the respondents in purported exercise of the power under the provisions of the Act. In the circumstances, we are not inclined to issue a general declaration as sought for by the petitioner.

Learned counsel for the petitioner, however, states that the petitioner would like to approach the second respondent seeking his intervention in the matter so that appropriate directions are issued to the officers concerned to act strictly in accordance with the provisions of the Act and not to detain the vehicles of the petitioner.

It is needless to observe that this order of ours shall not preclude the petitioner from approaching the second respondent if it so intends inasmuch as any dealer can approach the authorities at any time to ventilate their grievances and obviously, such grievances shall be taken into consideration by the authorities concerned.

With the above observation, the writ petition shall accordingly stand dismissed.

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(B.SUDERSHAN REDDY, J)

15th APRIL, 2005.

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(C.V.RAMULU, J)

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To

1 The Secretary, State of A.P., Commercial Tax Department, Secretariat, Hyderabad.
2 The Commissioner, Commercial Tax Department, A.P., Hyderabad.

3 Two CCs to the Government Pleader for Commercial Taxes, A.P.High Court Building, Hyderabad (OUT).

4 Two CD copies.